IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 180/2004

BISHAN SINGH & ORS. Vs. STATE OF RAJASTHAN

DATE: 13.03.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Pankaj Jain for
Mr. Manu Bhargava for the accused-petitioners.
Mr. B.S. Chhaba, PP for the State.

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The present criminal revision petition under Section 397 Cr.P.C. is preferred by the accused-petitioners against the judgment dated 14.11.2003 passed by the Special Judge, SC/ST (Prevention of Atrocities Cases) & Additional Sessions Judge, Alwar in Criminal Appeal No. 8/2002, whereby he partly allowed the appeal filed by the accused-petitioners and while modifying the judgment dated 26.07.2002 passed by the Additional Civil Judge (Jr. Division) & Judicial Magistrate No.3, Alwar in Criminal Case No. 262/96, instead of sentence, granted the benefit of probation to the accused-petitioners under Section 4 of the Probation of Offenders Act.

Vide judgment dated 26.07.2002 the trial Court has convicted the accused petitioners under

Sections 148, 451 and 323 IPC and sentenced each of them to suffer R.I. for three years and a fine of Rs. 2,000/- under Section 148 IPC, R.I. for two years under Section 451 IPC and R.I. for one year under Section 323 IPC. All the sentences were ordered to run concurrently. Against the said judgment dated 26.07.2002 the accused-petitioners filed an appeal and the Appellate Court while maintaining the conviction of the petitioners under Section 148, 451 and 323 IPC, given the benefit of probation to the accused-petitioners under Section 4 of the Probation of Offenders Act.

I have considered the submissions made by the learned counsel for the accused-petitioners, learned Public Prosecutor for the State and have also gone through the impugned judgments dated 26.07.2002 and 14.11.2003.

The trial Court after appreciating the evidence of the witnesses and the material available on record, has prima-facie found that the prosecution is able to prove its case against the accused-petitioners for the offence under Sections 148, 451 and 323 IPC and therefore, convicted them as indicated herein above vide judgment dated 26.07.2002. The Appellate Court also after appreciating the evidence has found the

petitioners guilty for the offence under Sections 148 , 451 and 323 IPC, but instead of sentence given the benefit of probation under Section 4 of the Probation of Offenders Act to the accused-petitioners considering the fact that prior to this, there is no criminal case pending against the petitioners and they are not habitual offenders.

The Appellate Court has considered each and every and has found the petitioners guilty for the offence under Sections 148, 451 and 323 IPC and has rightly exercised its jurisdiction while giving benefit of probation to the accused-petitioners.

I find no illegality or error apparent on the face of the record in the impugned judgment dated 14.11.2003 passed by the Appellate Court and the same requires no interference whatsoever by this Court.

Consequently, the revision petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

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